

UNITED STATES DISTRICT COURT

for the
Southern District of Texas

In the Matter of the Search of

*(Briefly describe the property to be searched
or identify the person by name and address)*Silver Samsung Smart-phone Model SM-G532M, IMEI#
359048/08/701251/0

Case No.

B-17-918-MJ

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property *(identify the person or describe the property to be searched and give its location)*:

A Silver Samsung Smart-phone Model SM-G532M, IMEI#359048/08/701251/0 currently located at the United States Border Patrol Harlingen Station, 3902 S. Expressway 83, Harlingen, TX 78552.

located in the Southern District of Texas, there is now concealed *(identify the person or describe the property to be seized)*:

See Attachments "A"

The basis for the search under Fed. R. Crim. P. 41(c) is *(check one or more)*:

- ☒ evidence of a crime;
- ☐ contraband, fruits of crime, or other items illegally possessed;
- ☒ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

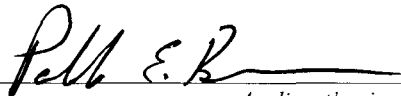
Code Section
21 U.S.C. § 841, 846

Offense Description
Conspiracy to Possess and the Possession, with Intent to Deliver a Controlled Substance

The application is based on these facts:

See attached Affidavit

- ☒ Continued on the attached sheet.
- ☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.


Applicant's signature

Pablo E. Barrera, Border Patrol Agent-Intelligence

Printed name and title

Sworn to before me and signed in my presence.

Date: November 17, 2017

*Judge's signature*City and state: Brownsville, Texas

Ignacio Torteya, III, US Magistrate Judge
Printed name and title

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

**United States District Court
Southern District of Texas
FILED**

NOV 17 2017

David J. Bradley, Clerk of Court

**In the Matter of the Search of a
Silver Samsung Smart-phone, Model
SM-G532M, IMEI#359048/08/701251/0**

§ § § § § § § § § §

Criminal No.

B-17-918-mj

**Currently Located at the
United States Border Patrol
Harlingen Border Patrol Station
3902 S Expressway 83
Harlingen, TX 78552**

**AFFIDAVIT IN SUPPORT OF AN APPLICATION UNDER RULE 41 FOR A
WARRANT TO SEARCH AND SEIZE**

I, Pablo E. Barrera, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I make this affidavit in support of an application under Fed. R. Crim. P. 41 for a warrant to search a silver Samsung Smartphone Model SM-G532M, IMEI# 359048/08/701251/0 (hereinafter "Device"), which is currently stored, in law-enforcement possession, at the United States (US) Border Patrol (BP) Harlingen Station, 3902 S. Expressway 83, Harlingen, Texas 78552, for certain things particularly described in Attachment A.

2. In my training and experience, I know that the Device has been stored in a manner in which its contents are, to the extent material to this investigation, in substantially the same state as they were when the Device first came into the possession of agents.

3. I am an Agent with BP assigned to the Rio Grande Valley Sector Intelligence Unit (RGV/SIU) in Harlingen, Texas. I have served as a BP Agent since August of 2007 and have been assigned to the RGV/SIU since April of 2015. I am a law enforcement officer of the U.S., within the meaning of 18 U.S.C. § 2510(7), who is empowered to conduct investigations of, and to make arrests for, offenses enumerated in 18 U.S.C. § 2516. I am classified, trained, and employed as a federal law enforcement officer with statutory arrest authority charged with conducting criminal investigations of alleged violations of federal criminal statutes.

4. During my career, I have been a part of numerous arrests linked to narcotics smuggling, and the harboring and transporting of undocumented aliens. Through these arrests, along with my training and experience and conversations with other agents and law-enforcement personnel, I have become familiar with the methods used by narcotics and human smugglers to smuggle and safeguard narcotics and undocumented aliens and to thwart or evade investigations of their trafficking organizations. One of the tactics frequently used by these organizations is the consistent use of cellular telephones and cellular telephones equipped with radio transmitters to coordinate the smuggling arrangements of narcotics and undocumented aliens in furtherance into the U.S. I am aware that members of these organizations often store co-conspirators' telephone numbers in the telephone memory and communicate using code names through cellular telephones and their radio transmitters to facilitate transactions and to conceal their identities.

5. This affidavit is being submitted for the limited purpose of establishing probable cause to secure a search warrant for the Device. As such, not all facts known to me or other agents concerning this investigation have been included. This affidavit was approved for filing by an



Assistant U.S. Attorney.

PROBABLE CAUSE

6. On November 9, 2017, at approximately 2:45 p.m., Harlingen, Texas Border Patrol Agents (BPA) responded to a sensor activation south of Military HWY. The sensor activation occurred approximately 150 yards north of the Rio Grande River, near Penn Road in Carricitos, Texas. This aforementioned area is notorious for a high volume of Alien and Narcotic Smuggling activity. Upon arrival, Agents observed foot sign imbedded in the ground of six subjects walking into the cane field leading from the Rio Grande River. After following the foot sign, agents observed six subjects run out from the cane field towards the Rio Grande River in an effort to avoid apprehension. The subjects ultimately jumped into the Rio Grande River, and swam back into Mexico. An extensive search of the area was conducted utilizing a BP K-9. A total of six bundles wrapped in cellophane suspected to be marijuana was located inside the cane field, along with a silver Samsung SM-G532M smart-phone, International Mobile Equipment Identity (IMEI) number 359048/08/701251/0. The Samsung smart-phone was located on the

ground next to one of the bundles. The six bundles along with the Samsung smart-phone were transported to the Harlingen, Texas Border Patrol Station for processing. All bundles tested positive for marijuana, and had a total weight of 149.6 kg (330 lbs.) valued at \$264,000. Brownsville DEA was contacted, and Task Force Officer O. Rivera accepted the seizure. The silver Samsung SM-G532M smart-phone, IMEI number 359048/08/701251/0 remained in BP custody pending an approval for a search warrant.

ELECTRONIC DEVICES AND STORAGE

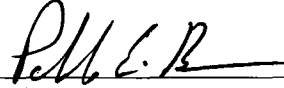
7. As described herein and in Attachment A, this application seeks permission to search and seize things that the Device might contain, in whatever form they are stored. Based on my knowledge, training, and experience, I know that electronic devices can store information for long periods of time. Even when a user deletes information from a device, it can sometimes be recovered with forensics tools. Similarly, things that have been viewed via the Internet are typically stored for some period of time on the device. This information can sometimes be recovered with forensics tools.

8. Searching for the evidence described in Attachment A may require a range of data-analysis techniques. In some cases, agents and computer analysts may be able to conduct carefully-targeted searches that can locate evidence without requiring a time-consuming manual search through unrelated materials that may be commingled with criminal evidence. In other cases, however, such techniques may not yield the evidence described in the warrant. Criminals can mislabel or hide information, encode communications to avoid using key words, attempt to delete information to evade detection, or take other steps designed to frustrate law enforcement searches for information. These steps may require agents and law enforcement or other analysts with appropriate expertise to conduct more extensive searches, such as scanning storage areas unrelated to things described in Attachment A, or perusing all stored information briefly to determine whether it falls within the scope of the warrant. In light of these difficulties, BP Agents intend to use whatever data-analysis techniques appear necessary to locate and retrieve the evidence described in Attachment A.

CONCLUSION

9. I submit that this affidavit supports probable cause for a warrant to search the Device and seize the items described in Attachment A.

Respectfully submitted,



Pablo E. Barrera
Border Patrol Agent-Intelligence
United States Border Patrol

Subscribed and sworn to before me

On November 17, 2017:


UNITED STATES MAGISTRATE JUDGE

ATTACHMENT A

1. All records and information, contained in a silver Samsung Smartphone Model SM-G532M, IMEI# 359048/08/701251/0, that involve violations of 21 U.S.C §§ 841, 846 (Conspiracy to Possess and the Possession, with Intent to Deliver a Controlled Substance):

- a. any information related to narcotic smuggling and alien smuggling (including saved contacts, phone logs, text messages, voice mails, videos, photos, or any other saved records); and
- b. evidence of user attribution showing who used or owned the Device at the time the things described in this warrant and attachment were created, edited, or deleted, such as logs, phonebooks, saved usernames and passwords, documents, and browsing history.

2. As used above, the terms “records” and “information” include all of the foregoing items of evidence in whatever form and by whatever means they may have been created or stored (including, for example: call logs, contact lists, voicemails, and text messages), including any form of computer or electronic storage (such as flash memory or other media that can store data) and any photographic form.